

## United Capitol Insurance Company Public Notice

### NOTICE TO NEW JERSEY POLICYHOLDERS AND CLAIMANTS OF UNITED CAPITOL INSURANCE COMPANY

By Order dated November 14, 2001, the Circuit Court of Cook County, Illinois declared United Capitol Insurance Company ("United Capitol") insolvent, terminated its September 12, 2001 Order of Conservation, placed it in liquidation, and appointed Nathaniel S. Shapo, Director of Insurance of the State of Illinois (the "Director" or "Liquidator"), and his successors as Liquidator (the "Liquidation Order"). United Capitol was a surplus lines insurer admitted to export business to the State of New Jersey from February 3, 1966 to November 14, 2001. Due to the insolvency of this company, certain claims which constitute "covered claims" pursuant to the New Jersey Surplus Lines Insurance Guaranty Fund Act, *N.J.S.A. 17:22-6.70, et seq.* (the "Guaranty Fund Act") will be paid by the Guaranty Fund. Conditions for payment are more fully discussed below.

The Liquidator was ordered to take possession of all assets and property of United Capitol. The Liquidation Order provides that all policies, bonds and/or certificates of insurance which may give rise to "covered claims" of the Illinois Insurance Guaranty Fund or of any similar organizations in any other state shall be cancelled on the earlier of:

- (a) a period of 31 days from the date of entry of the Liquidation Order;
- (b) until the normal expiration of the policy, bond and/or certificate of insurance; or
- (c) until the date when the insured, bondholder or certificate holder has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminates the policy.

The Liquidation Order does not direct all persons who may have claims against United Capitol, including, without limitation, creditors, insureds, claimants, reinsurers, agents and governmental agencies, to send a Proof of Claim to the Liquidator by a date certain (the "Bar Date"). However, it is anticipated that policyholders and other interested parties will be notified of the Bar Date by the Liquidator and that the Bar Date will be November 14, 2002. The Liquidator shall also cause a notice to be published in newspapers of general circulation where United Capitol has its principal place of business: (a) specifying the last day for the filing of claims; and (b) advising of the Proof of Claim process as well as other relevant information. If you require Proof of Claim forms, please request them from the Liquidator.

To be eligible for New Jersey Surplus Lines Insurance Guaranty Fund (the "Guaranty Fund") coverage under the Guaranty Fund Act, all policyholders and claimants seeking such coverage must submit their claims to the Guaranty Fund by the Bar Date which is ultimately set by the Liquidator.

Pursuant to *N.J.S.A. 17:22-6.70, et seq.*, the Guaranty Fund hereby notifies all New Jersey insureds of United Capitol, all New Jersey residents having claims against such insureds, and any other interested parties of the determination of insolvency with respect to United Capitol, entry of the Liquidation Order and of their rights under the Guaranty Fund Act.

The Fund is obligated to the extent of the "covered claims", as defined in the Guaranty Fund Act, against an insolvent insurer incurred prior to or 30 days after the determination of insolvency, but before the policy expiration date or the date upon which the insured replaces the policy, or causes its cancellation, if he does so within 30 days of the determination.

In addition to these limitations, each covered claim is subject to any applicable deductible contained in the policy.

### **IMPORTANT NOTES**

(1) THE PROTECTION, IF ANY, AFFORDED BY THE GUARANTY FUND TO POLICYHOLDERS AND CLAIMANTS MAY DIFFER FROM COVERAGES SET FORTH IN THE POLICIES ISSUED BY THE INSOLVENT INSURER.

(2) THE OBLIGATION OF THE FUND SHALL BE LIMITED TO AND SHALL INCLUDE ONLY THAT AMOUNT OF A COVERED CLAIM WHICH IS EQUAL TO OR LESS THAN \$300,000 PER OCCURRENCE.

A "covered claim" is defined by the Guaranty Fund Act to mean an unpaid claim, including one of unearned premiums which arises out of and is within the coverage, and not in excess of the applicable limits of an insurance policy to which the Guaranty Fund Act applies, issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which was determined to be an insolvent insurer, if:

(1) the claimant or insured is a resident of New Jersey at the time of the occurrence of the insured event for which a claim has been made, or

(2) the property from which the claim arises is permanently located in New Jersey.

"Covered claims" do not include lines of insurance excluded from coverage by the terms of the Guaranty Fund Act, nor any amount due a reinsurer, insurance pool, or underwriting fund, as subrogation recoveries or otherwise. The lines of insurance excluded from the Guaranty Fund Act are: workers' compensation insurance, title insurance, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance and ocean marine insurance. The Guaranty Fund Act applies only to property and casualty lines of direct insurance and does not apply to reinsurance of any kind.

A "covered claim" shall also not include amounts for interest on unliquidated claims, punitive damages unless covered by the policy, counsel fees for prosecuting suits for claims against the Fund, and assessments or charges for failure of the insolvent insurer to have expeditiously settled claims.

A "covered claim" shall also not include a claim filed with the Guaranty Fund after any final date set by the Liquidation Court for the filing of claims against the Liquidator of United Capitol, unless the claimant demonstrates unusual hardship and the Commissioner approves of treatment of the claims as a "covered claim."

For the full provisions of the Guaranty Fund Act, reference should be made to *N.J.S.A. 17:22-6.70 et seq.*

Any persons having a "covered claim" which may be recovered from more than one insurance guaranty fund or its equivalent shall seek recovery first from the fund at the place of residence of the insured at the time of the insured event, except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the fund at the location of the property. Any recovery under the Guaranty Fund Act shall be reduced by the amount of recovery from any other guaranty fund or its equivalent. However, if recovery is denied or deferred by the Guaranty Fund, a person may proceed to recover from any other insurance guaranty fund or its equivalent from which recovery may be legally sought.

Finally, the Guaranty Fund requires exhaustion of coverage under solvent insurers' policies before statutory benefits may be sought from the Guaranty Fund under the policy of an insolvent insurer such as United Capitol. Any amount otherwise payable on a "covered claim" shall be reduced by the amount of recovery under any solvent insurer's policy.

All inquiries and communications regarding any covered claim arising under a policy of insurance issued by United Capitol Insurance Company should be directed promptly to the New Jersey Surplus Lines Insurance Guaranty Fund's Claim Office located at located at 59-63 Mine Brook Road, Bernardsville, New Jersey 07924 (telephone: (908) 953-9533).